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## Kafka: Crime and punishment

Timo Airaksinen<sup>1</sup>

### Abstract

When we read *The Trial* and *In the Penal Colony* together, we read about the logic of law, crime, punishment, and guilt. Of course, we cannot know the law, or, as Kafka writes, we cannot enter the law. I interpret the idea in this way: the law opens a gate to the truth. Alas, no one can enter the law, or come to know the truth, as Kafka says. The consequences are devastating: one cannot know the name of one's own crime, which is to say guilt is eternal and permanent; nothing can absolve us. Only one solution exists. Josef K. in *The Trial* should have committed suicide like the Officer in "Penal Colony." That is to say, perhaps, that you always are your own judge and executioner. Guilt cannot be doubted and thus, you are doomed. Both narratives are cruel and ruthless in their own way in their moral pessimism.

**Keywords:** guilt, shame, law, knowledge, truth, redemption

### At the gates of Law

In *The Trial* and *In the Penal Colony* Franz Kafka discusses something he calls the Law and he does it in terms of guilt, crime, and redemption. Of course, he deals with the Law elsewhere as well, but these two literary masterpieces form a pair in the sense that the logic of one complements and comments on the logic of the other. We should read them together if we are interested in their interpretation and philosophical import. Excepting the purists who enjoy the story as such on aesthetic grounds, the reader is bound to ask questions like, what is the Law, what is Josef K.'s crime, and who are the high judges who are supposed to sentence him, when a sentence is needed. An unequivocal fact is the punishment is death in the hands of an executioner. However, the reader should not expect any theory or philosophy of ethics, law, and justice. Ethics of literature is a different language game.<sup>2</sup> *The Trial* is a fertile source of moral questions but all of them defy plausible answers. The result is an intriguing mystery play and a play of mysteries that challenge the reader without giving him/her an obvious clue of how to solve them. It all ends in an old quarry but before that we visit, with Josef K., a large, dark cathedral and listen to a priest's mock sermon from the pulpit when he talks about the Peasant at the Gates of Law. Here we find a riddle within a riddle, another narrative whose interpretation threatens to remain an enigma. No one is supposed to enter the Law, even if the gate is always open – as the Guard says (Kafka, 2009, "In the Cathedral"). And every person has his or her own gate, and consequently a personal guard. Perhaps this parable contains traces of Plato's Cave: that gate leads out of the cave allowing ideas to shine clear and distinct to the illuminated person. Plato allows this, Kafka does not. Plato says his dialectical method of inquiry leads to illumination; Kafka does not agree. He closes the gate. He has no access to such dialectic.

The story of the "Penal Colony" (Kafka, 1988) is a straightforward narrative bereft of metaphorical or metaphysical terms. Its narrative is factual and mainly employs metonymic tropes. If *The Trial* is a dark comedy or tragic farce where the hapless Josef K. marches towards

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<sup>2</sup> About the relationship between ethics and literature: "Instead of the text telling readers to perform certain acts, it now considers whether it has the right to tell the reader to do anything at all. Hillis Miller's ethical move is, by his own admission, a Kantian one. Now the text is conceived according to its legislative moment, whose claim to truth is such that it cannot but be obeyed, for the reader cannot but firmly adhere to its principles" (Poiana, 1995, p. 49). This seems to be true of Kafka's texts, too.

his doom in a social environment whose inner logic has suddenly turned into something he no longer recognizes, the "Penal Colony" is, on the contrary, a horror story complete with images of madness, torture, gore, and blood. Its cruelty is shocking but cleverly mitigated by the fact that the reader cannot positively identify with any of the major players: the Traveller or Explorer, the Officer, and the sentenced Soldier. Its underlying logic plays with some deep ironies that constantly and consistently threaten to turn into cynicism (Airaksinen, 2019b). The source of irony is the fact that horrible things are recommended and celebrated by the Officer as if they were expressions of good logic, true values, and requirements of the law, all based on some traditions of the most exalted kind. The sacred creator of all this is the Old Commandant whose power is now trusted to the present Commandant, that troubled and shadowy figure represented by the Officer; this lineage gives the narrative a deeper pseudo-historical meaning (Kafka, 1988, p. 153).

Irony entails that what is bad is called or seen as good, in this case torture entails justice, although the *dramatis personae* may not see it that way – not even the Explorer who watches and listens without comment.<sup>3</sup> In the end he frantically escapes as if he were threatened by the cruelty of the Colony – the rope trope has become a modern classic (Kafka, 1988, p. 167). The story is readable, straightforward, and exciting, but as I aim to show that its apparent simplicity allows us to utilize the narrative when we read *The Trial*.<sup>4</sup> What is simple may reproduce and thus explain what is more complicated – this is mimesis as simulation. Or perhaps *The Trial* emulates the "Penal Colony," that is, its very complexity derives from what happens in the "Penal Colony" and can be understood on that basis.<sup>5</sup>

### Law and truth

Josef K. wants to know the name of his crime. The arresting bailiff ridicules him: How could you know it when you do not know the law: "Look, Willem, he admits he doesn't know the law and at the same time claims he's innocent" (Kafka, 2008, p. 9). In the penal colony, the punishment teaches the sentenced person the name of the crime, or actually, the name of the norm he has violated: he reads it from his own skin and flesh.<sup>6</sup> Now, truth can be understood in two ways, either analytically in its minimal sense or essentially in its maximal sense. Analytically, we ask how a sentence and facts are related: if and only if the sentence corresponds to facts is it true. In this way, truth is the property of the sentence. Essentially, I can ask what the truth about this or that matter is, for instance, the truth about the rule of law. I am then asking about the essence of it, or what it is all about. Someone may be a false prophet in the sense that he is not a true prophet. A man may be a true man. These two versions of truth are different but equally valid, or we need both the "true sentence" and "the truth about something", when we read Kafka. Also, "truth" means the particular instance of the Truth, which is a Platonist construal. The Truth means a high value and the relevant Platonic idea or form; the Law and other capitalized general terms in this essay should be understood in the same way. The Law is the idea behind laws. The name of one's crime is an instance of the Truth.

Kafka's attitude to the truth: the truth about facts looks trivial. How many prostitutes worked in Prague in 1900 can be calculated, if not exactly then at least approximately. A fact like this does not interest an existentialist and expressionistic author like Kafka, as for instance the

<sup>3</sup> This has been called irony *oratio obliqua*, or unintentional irony.

<sup>4</sup> As Reiner Stach says, the "Penal Colony" was "an offshoot of *The Trial*" (Stach, 2013, p. 481).

<sup>5</sup> When a simple structure represents a more complex one, we have simulation; emulation is the opposite case (Airaksinen, 2019d).

<sup>6</sup> According to Jeremy Bentham, common law fails to inform the accused person of his crime, unlike codified law. It all depends on precedents and the judges' interpretation. This makes it impossible to know beforehand what is criminal and what is not (Bentham, 1780/2019).



various factual mistakes in *Amerika* show: the Statue of Liberty wielding a sword, no harbour piers in New York, a bridge between New York City and Boston, high hills around New York, and mountains like the Rockies between New York and Oklahoma.<sup>7</sup> But think of something we may call the truth about a life lived well, including moral questions like homosexual, paedophilic, and incestuous desire, the reasons to marry, honesty and deceit, and the ultimate value of one's artistic work. Truth is like meaning: we ask, what is the meaning of suffering or the truth of it. It is undeniable that we can say something meaningful of these things, perhaps something that is so deep and revealing that it indeed is worth saying. Ask what to think of marriage blanc, or marriage without sex. This is to play with guilt and anxiety, as Kafka knew so well. In *The Trial*, a trivial piece of truth becomes crucially important: the name of your crime, or what you have done to deserve all the pain. Or perhaps this singular truth is irrelevant: it does not concern my deeds, it may be about the life I live, or the truth about my whole existence – I mean the guilt.

The “Penal Colony” plays with the simple and *The Trial* with the essential idea of truth *de dicto* (definition). But what is the truth *de re* (what is the case) and how to find it? This is my key thesis: we want to know the truth and we find it in the Law, that is, why is it that “‘Everyone seeks the Law’, the man says”, and he is right (Kafka, 2008, p. 155).<sup>8</sup> As Kafka might put it: To know the truth, or the name of the crime, you must enter the Law through an ever-open gate. Next, let us ask, why does the Law represent what is true, or the Law signifies the Truth? However, this only holds in terms of metonymies: to enter the Law is to enter the Truth, and to know the Truth is to know the Law.<sup>9</sup> We may say something like, “The Law is like the Truth” or “The Truth is embedded in the Law”, if this helps us make sense of K.’s – and Kafka’s – relentless quests for knowledge. Now, who is going to say what those key truths are? Art can approach the Truth in an indirect and tentative manner, but that is all. Truth is a hallowed thing, or an ideal case, that one approaches with fear and trembling knowing full well that it hides behind questions that allow nothing but trivial, confused, and misleading answers.

However, the Peasant must stop at the front of the Gate – the Guard is unyielding and always there. This is the Gate of Law, but why “Law”? Why not say, it is the gate of Truth? The answer is simple: The Truth is unknowable in its proudly essentialist garb. Is the Law different, that is, knowable? Josef K. did not know the law, as the bailiff says. The Peasant cannot enter the Law. The answer must be, one cannot know the Law although the Law is a gate to the Truth: if we knew the Truth that would only be because of the Law. Of course, the conditional proposition here must be understood in the counterfactual sense, which is to say that its antecedent term is false. Therefore, the Law does not provide us with the Truth; it only shows the way through the Gate. It is like saying, here is the road home over an impossibly high and rough mountain – you need to fly, but the route is here. This information has no practical consequences because you cannot fly, but it still is valuable.<sup>10</sup>

Let me illustrate. Suppose you deliberate about some ethical problems *de se*, or as they concern you personally here and now; hence, they are unavoidable and pressing. How are you supposed to know the Truth about them, say, in Kafka’s case, his true attitude towards his father Hermann? Could Franz ask his friends? What does it matter what they say? Would it douse or flame the anxieties in him that this all-important question causes? He insists on a valid answer, one of authority and abidingness, or something one cannot ever argue against. Then and only

<sup>7</sup> See about the meaningfulness of such errors (Airaksinen, 2019c, p. 146).

<sup>8</sup> To say one seeks the law is not idiomatic; one seeks the truth. This hints at Kafka’s strategy of meaning. Another strange idea is to “enter the Law,” as if the Law is the same as the Law Court

<sup>9</sup> About such master tropes (see Burke, 1969, p. 509).

<sup>10</sup> Cf. *The Castle* (Kafka, 2008) where K. knows the way to the Castle but cannot use it. The road leads to the Castle and does not lead to the Castle (Airaksinen, 2019c, p. 134f.).

then can he justifiably hope for relief. He needs the Truth to absolve or punish himself. But we already know where the Truth lies: the Law is the key. When the Law says the case right or wrong, good or bad, laudable or sinful, that is it. You cannot argue against the Law because it is the sacred norm and the categorical rule that is created to provide you the answer, or the truth of the matter.<sup>11</sup> But Josef K. never finds a law court that would pass the verdict. His search is unrelenting.

Mimicking Pontius Pilate, Kafka asks, “What is the truth?” – but without drawing an explicit distinction between the *de re* and *de dicto* interpretations of the question. In fact, Kafka pretends that he, and Josef K., are interested in the *de re* case (Am I in fact guilty of something, and what is the name of my crime?), when in fact he first discusses the case *de dicto* (What is the meaning of truth?). The reader expects to find a simple answer *de re*, which will remain hidden. Hence, Kafka flirts with Josef K.’s guilt without telling the reader that this is not the point of the narrative. The basic issue is the Law and its relation to the Truth, which creates a metaphysical problem worthy of attention and devotion. Josef K. first wants to know the truth, or what he has done wrong, but soon he starts searching for the Truth, or what the Law is all about. Ultimately, he wants to know where the Law is and who embody the Law, or who are the highest judges. He wants to meet and see them. He wants to talk to them. He must think, if I knew the Law, I also would know the Truth, or what lies on the other side of the Gate of Law, and *a fortiori* the source of my guilt. Anyway, the quest for the Truth is, so to speak, a legal problem – because it all depends on the Law.

### ***The Proof, or the “Penal Colony” and The Trial compared***

The “Penal Colony” is, as I have already stated, a straightforward horror story that focuses on a terrible machine worthy of the Marquis de Sade’s machinery designed for the tortures in the section of the final and decisive “Hell Passion” at the end of *The 120 Days of Sodom*:<sup>12</sup>

Everything is ready, all the tortures are in motion, and they proceed simultaneously, amidst much noise. The first torture engine is a wheel upon which the girl is strapped and which, rotating interruptedly, bears against an outer circle studded with razors which everywhere scratch and tear and slice the unfortunate victim, but as the blades do not bite deep, only superficially, she turns for at least two hours before dying (Sade, 1969, p. 667).<sup>13</sup>

I need not elaborate on this sick example. Kafka’s machine works like this: moving needles dig in and cut like blades into the skin and flesh of the condemned person for twelve hours writing the name of the crime on it (Kafka, 1988, pp. 147ff.). After six hours, the victim will start making sense of the script on his skin. At the last moment just when the victim dies, he successfully reads the name of his crime, and this illuminates his face one last time: “Enlightenment comes to the most dull-witted. It begins around the eyes. From there it radiates” (Kafka, 1988, p. 150). It is as if the knowledge made him free, in the sense cultivated by Sigmund Freud: knowledge of the aetiology of anxiety relieves the victim from its clutches. Freud was serious about it, but Kafka creates a parody of the magic of self-knowledge – and what a horrible parody it is. “Knowledge makes you free” sounds like a parody of “Arbeit macht frei”. In the end, the criminal knows the name of his crime, this is why he is tortured, or alternately, not tortured but informed about the law according to the idea of the Law: it is all

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<sup>11</sup> This may be called Kantian intuition (Kant, 1797/2017).

<sup>12</sup> I do not want to compare, like D. Vardoulakis, Kafka’s fictional torture fantasy with the true historical case in the opening pages of M. Foucault’s *Surveiller et punir* (1975), especially if you hope to find some humor in it. And, of course, in Kafka’s tale no one is tortured (Vardoulakis, 2016, Ch. 5).

<sup>13</sup> Fifteen different machines are working in the dungeon. Kafka might have read the book because it was published in German in 1904.

about truth and knowledge. The victim has reached fulfilment and redemption through a kind of insane illumination, when it is all over. He is free, as free as a person ever can be. Then he dies. This is how the process should go, but this is an empty *should*, as we will see. Anyway, the rule is, according to the Law, you are guilty but you do not know it: you cannot know the name of the crime. But the law is written so that you in the end should know. This follows the Platonic rule to the effect that the Law serves the Truth, however painful this may be. However, as the reader of the “Penal Colony” knows, this is an illusion. The name of the crime exists; it is, so to say, obtainable but never obtained. When the Officer shows the script containing the name of the Soldier’s crime to the Explorer, he cannot make sense of it. The Officer deciphers it: it reads, “Honour Thy Superiors”. What is this? The machine was supposed to write this text on the skin of the Soldier, and in fact, the text logically entails the name of the crime: he has not been obedient. In case of the Officer, the scrip reads, “Be Just”. Again, this is not the name of a crime; it is what the Officer should represent in his role and life. But in what way has he been unjust? What is the exact name of his crime, nobody can tell. However, whatever it says, the script is both unreadable and uninformative. The Officer claims it is readable – it is after all a script, a primitive kind of program that guides the machine when it ever so slowly massages the message on the flesh of the convict.

The Officer cannot secure the acceptance of the Traveller and in his deep desperation ties himself down to the machine platform, as if to learn about his own crime. The Officer behaves as if he did not know. He does not know even if the script is in his pocket among other scripts: by selecting it he sentences himself as if he were a judge. Then the machine breaks down and the scene deteriorates into social, moral, and technical chaos and ultimately disaster. In his atavistic mind, the Officer cannot control his desire to die and learn, although he should now know it is impossible in these modern times. Indeed, he is denied the name of his crime: the machine punctures him killing him instantly; he is left dangling from the spikes in thin air splattering his blood all over. No illumination accompanies punishment in these days. The face of the Officer stays blank when, ideally, it should express deep relief (Kafka, 1988, p. 166). At this point, an attentive reader realizes the true point of “Be just”. It was meant that Officer himself reads it, it was already in his pocket during the conversation with the Explorer, but the only way he can read it is from the machine when it tortures him. The Explorer could not read it because the name of the crime cannot be read without the machine, and thus it follows that the Officer could not read it either. He guesses what is written, and so we have an explanation why the Officer enters the machine: he wants to read the name of his own crime. Certainly, we do not know what the machine would have written, if it did not malfunction. It may have been something other than “Be Just”. Of course, this is too late; the script is already indecipherable in any form. It cannot be read, and the machine collapses. In these days, punishment is simpler and quicker.

As we learn, the torture was invented by the Old Commandant some time ago; actually, one can think of a long time span, or even say the practice is ancient and belongs to another era. Now its time is already past; hence, the machine does not work. It is a mere relic of the past, or a mere moral remnant. Nevertheless, the Officer hopes to bring back the old, better era: “And our prophesy has come true; the new Commandant has to acknowledge its truth”. The text quite amusingly mocks the Bible and the Christian concept of Jesus Christ’s death and resurrection: the Officer must sacrifice himself so that the followers of the Old Commandant can come and flourish again. Here rests the old Commandant. His adherents, who now must be nameless, have dug this grave and set up this stone. There is a prophesy that after a certain number of years the Commandant will rise again and lead his adherents from this house to recover the colony. Have faith and wait!

The text skilfully creates an archaic sense of time as if the Old Commandant were a magical and sacred figure. Such a feeling is fortified by our knowledge that a local priest once denied

him burial in holy ground, and his ruling stays. The man was a monstrous tyrant but, anyway, he still has his dedicated followers who wait for his second coming. Then all will be good, as if the New Jerusalem had descended amongst them. The new era will once again allow the criminal to know the name of his/her crime, however terrifying the method. The times of enlightenment and illumination will be back. Should they welcome it is another matter. Notice, incidentally, how closely parallel the deaths of the Officer and Josef K. are: In both cases their body is punctured by a sharp object, needles and a knife. Both cases hint at suicide, and this is no Socratic case: Josef K. realizes he should have done it himself and feels bad about it: “K. knew very well that it would have been his duty to grasp the knife himself as, going from hand to hand, it hung in the air above him, and plunge it into his own body. But he didn’t do that”. Therefore, “‘Like a dog!’ he said. It seemed as if his shame would live on after him” (Kafka, 2008, pp. 165–166). Socrates did it himself, he emptied the cup of hemlock as required, and thus he avoided the shame of his execution. He refused to be at the mercy of the executioner. But K. has failed the last test. Dogs do not commit suicide when the time is right, unlike men. The Officer in the “Penal Colony” deliberately kills himself by tying himself to the machine. In Josef K.’s case, his long road to knowledge is now denied by the knife and, in the same way, the spikes refuse to inform the Officer. Both men know, or at least should know, that this is the case. They have no hope. They will never know. All this supports the idea that we should read the “Penal Colony” and *The Trial* together. Both texts tell the reader that in these days crime is a secret that cannot be known. Its name does not reveal itself, yet both men are guilty. The hand that appeared from nowhere to write King Belshazzar’s destiny on a white wall, will not return. Daniel deciphered the unreadable text for the King who came to know his crime and sentence, but this was a long time ago (*Daniel* 5–6).

### **What is, then, Josef K.’s crime?**

The reader of the “Penal Colony” learns the name of the Soldier’s crime from a reliable source: it is disobedience. The soldier behaves like a complete idiot, as if he did not care or understand what is going on and what will happen. He behaves as if it were obvious that the machine will not work, or everything is just a silly game. Josef K.’s case is different. In the morning, two bailiffs enter his lodgings to tell him he is arrested. This is strange because they do not take him along with them; so, in what sense is Josef K. actually arrested? They deliver no subpoena; the Inspector in the other room only tells him that he is arrested, but he does not know whether he is suspected of some crime or not: “I cannot even confirm that you are charged with an offence” (Kafka, 2008, p. 12). Josef K. has done nothing wrong, as the reader learns immediately from the omniscience narrator. But this is not the point. The point is, Josef K.’s crime is and stays unknown. Perhaps he has committed a crime, perhaps not. If he has, no one knows anything of it. Perhaps it is unknowable, perhaps it is unknowable to the judges as well – the name of the crime is secondary because punishment is all that matters. Guilt is undeniable, one cannot deny one’s guilt, and the punishment will follow when the stars are right. As the Officer says: “My guiding principle is this: Guilt is never to be doubted” (Kafka, 1988, p. 135).<sup>14</sup> This is something Josef K. never understands and, in this sense, he does not know the Law.

Of course, the reader may speculate at this point. Think of the bailiffs and their fate: Josef K. finds them in a side-room where a whipper is mercilessly lashing them. The reason is that they have not performed their duties correctly when they met Josef K. for the first time. Perhaps Josef K. was the wrong person and then it is true that he is innocent. He is the wrong man. It is a mistake, Josef K. repeats, it must be a mistake. But this does not matter because his crime has

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<sup>14</sup> About Kafka’s ideas of law and guilt (see Kafka, 1988, pp. 12, 145 Cf.; Airaksinen, 2019a, pp. 13–14). Notice: legal guilt can be doubted, unlike the feeling of guilt. Kafka intentionally confuses jurisprudence and psychology here.

no name anyway. Any crime is a perfectly nebulous and undefinable entity, yet Josef K. is guilty – guilt is beyond suspicion. This is part of its essence: if you are accused and found guilty, you are guilty of being accused; if you feel guilty, this proves your guilt because otherwise you would not feel what you feel. This is how I read Kafka.

Next, Josef K. learns that the Law is everywhere and that everyone he meets belongs to the Law, for example everyone in the abysmal darkness of the cathedral. The Offices of the Law fill all the attics in town, but the high judges remain absent. The case becomes first panicky and then paranoid. Perhaps Josef K. is or is becoming a paranoid megalomaniac. Perhaps the Officer was in peril, too. I am not pushing a psychological or psychoanalytic interpretation here; I am only referring to some structural features of such cases. As Elias Canetti writes referring to Sigmund Freud's case studies, Daniel Paul Schreber:

At this point one should perhaps stress the importance which plots and conspiracies have for the paranoiac. They are continually with him and anything even remotely resembling one is immediately seized. The paranoiac feels *surrounded*; his chief enemy is never content to attack him single-handed, but always tries to rouse a spiteful *pack* to set on him at the suitable moment. At first the members of this pack keep hidden and may be anywhere and everywhere; or else they pretend to be innocent and harmless, as if they were not lying in wait for anything. [...] They wanted to turn him into an imbecil to push the illness of his nerves to the point where he would appear permanently incurable. Could there be any prospect more terrible for a human being as gifted as he thought himself? (Canetti, 1984, pp. 436–437).

Megalomania and paranoia belong together because a paranoid person thinks that everyone is after him, that their evil eye is constantly following him and only him. Now, to say everyone is interested in me and willing to do anything to hurt me entails I, myself, being both unique and all-important as a person and social agent; this is megalomania. Others are, all of them, after me and ready to do anything to hurt me, which entails my perceived value being infinitely high. My resources are limited and thus I am doomed. But of course, they do not act immediately. Instead, they observe and follow me to the end of the world because they know this entails my boundless suffering and panicky life. They want to hurt me, and their strategy plays with my vulnerabilities in the cruellest possible manner.<sup>15</sup> The following explicates this:

“To the cathedral?” Leni asked. “Er, yes, to the cathedral.” “Why ever to the cathedral?” Leni asked. K. tried to explain briefly, but hardly had he started than Leni suddenly said, “They’re hunting you down.” K. had no time for pity that he had neither invited nor expected, and simply said goodbye, nothing more, but as he replaced the receiver he said, half to himself, half to the far-off young woman he could no longer hear, “Yes, they’re hunting me down” (Kafka, 2009, p. 146).

But the Priest's final comment does not support such a paranoid idea, though:

“I belong to the court,” said the priest, “so why should I want anything from you? The court does not want anything from you. It receives you when you come and dismisses you when you go” (Kafka, 2009, p. 160).

This exchange resembles the initial arrest scene in *The Trial*: the Inspector does not want anything from him. On the contrary, he dismisses Josef K., whose fear of “them” and their modest aims do not seem to fit together. Nevertheless, when he develops the idea of “them”, he already flirts with paranoia. The Priest is nonchalant in his final comments in the Cathedral as

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<sup>15</sup> Such a simple interpretation is dangerous, though (Airaksinen, 2017).



if to show that Josef K. is totally and ultimately in the hands of the Law. Josef K. has no control over his fate, in this sense he is doomed. The lenience of the Law is deceptive. Now Josef K.'s only hope is to enter the Law. In this sense, he is similar to the Peasant who sits and waits at the Gates of Law and is constantly watched by the Guard, who never grows old unlike the Peasant, and who then shuts the gates that remain open. If he could enter the Law, he would know the name of his crime and they could no longer harass him, he would be free again. This is not going to happen. Hence, let me suggest what Josef K.'s crime is, it is his paranoid megalomania. If this is so, the punishment is, "Kill yourself", and the only reason for it, "Be just". This is what the Officer did while Josef K. failed.

They can wait until you do it, and they trust that you behave accordingly. As the Priest says, everything is up to you; but this applies only to the death penalty, which means suicide. When a person is ready for it, the Law, so to speak, receives him. He offers his own death to the Law that only requires justice, but of course, justice is something the Law cannot receive from the guilty person. And the Law lets you go through dying and death when you move away from this life, to heaven or hell, who knows? The point is, the Law allows you to punish yourself, first by guilty feelings and anxiety, and then by the deadly blade. And it allows you to die and go away. It is all about your own megalomaniac paranoia, which is a crime, but only in the sense that it punishes you by means of your own intolerable anxiety, for example by means of the anxious desire to come to know and see the faces of the high judges. Kafka seems to say: your guilt comes first and as such it justifies punishment. Crime does not deserve punishment, only guilt and anxiety do. Crime is nothing but guilt is everything. Normally we think that crime entails guilt; for Kafka, guilt entails crime – but guilt does not name a crime.

They are all after you, they are everywhere, and all the power over you belongs to them. What can you do but to kill yourself, you are indeed doomed, like any criminal waiting for his executioner locked up in his cell? Josef K. and the Officer are both guilty in the same way and thus they deserve the same fate, or punishment. This is an instance of "Be just". Both of them are also paranoid megalomaniacs: Josef K. believes everyone is against him and only him whereas the Officer, a makeshift Christ figure, assumes the full responsibility of the failure of the past legal world, as if it depended on him. Finally, we also notice that the machine breaks down and fails to read the script the Officer feeds to its reader. The machine as if goes crazy when it misses the name of the crime of the Officer. This is its own particular crime that entails suicide. Of course, the crime of the machine remains a secret, like all other names of crimes, and this brings about the third suicide in these two tales. Notice also that Josef K. had done nothing; the Officer did nothing although he tried; and the machine also failed to execute. The failure to act, or one's impotence, is the very cause of guilt, and thus it approximates the name of the crime. In other words, their crime is their very innocence, and its proper consequence is the anxiety that culminates in suicide. But innocence is no reason for leaving you alone, as any paranoid person knows. On the contrary, it is *sine qua non* of their attitude towards you. The causal chain may well be like this: the agent is innocent, and that is why "they" harass him/her, this makes him/her feel guilty, which drives him/her towards suicide, assisted by "them". And of course, guilt alone implies crime. It cannot be doubted.

### **Conclusion: Methodological and tropological themes**

I have read the "Penal Colony" and *The Trial* as if they were narrative accounts of some fictional events, that is, as if their sentences carried a truth-value. We know that the name of Superman is Clark Kent who is vulnerable to Kryptonite. One cannot deny these facts. To say that Clark Kent is not the name of Superman is a mistake and to say that Superman can handle Kryptonite is also wrong. Such facts are easy to verify and document. We can then wonder how Mr. Kent does it, how can anyone be so strong and virtuous? Of course, it is all fictional, but we can presume that fictional characters and events might be in contact with the world as we know it,

as if a fictional narrative referred to an alternate possible world so that a path leads from our world to that new world. We may be able to imagine that path – in the case of Superman we fail, in the case of Josef K. we may succeed.

The idea of the path between two possible worlds is this: we do not know how to modify our world so that it becomes the world of Superman. In this sense, Superman stories do not represent the realistic genre of fiction. His powers are such that we cannot imagine how to explain them. We simply have no idea how to modify our world accordingly. To mention a well-known example, we are invited to imagine a world where kangaroos have no tails. We know how to enter such a world, and then we can say, “If kangaroos had no tails, they would topple over”, which looks like a true sentence.

Are the “Penal Colony” and *The Trial* realistic stories in this sense? I have treated them as if they were. The “Penal Colony” tells a story that (almost) could be true.<sup>16</sup> Think of the machine that tortures the victim for twelve full hours. The Chinese method was to feed massive amounts of opium to the victim so that he would stay alive for the required time. Perhaps the “Penal Colony” is a parody but it still can be read in the realistic mode. *The Trial* is a more problematic case, and one may argue that for two different reasons the narrative fails to be realistic: First, we do not quite know what such terms as the Law and ideas like entering the Law and Truth mean, I mean in empirical terms. Second, the omnipresence of the Law and the idea of supreme judges are constructions that may not be mimicked by means of some modifications made to our world. In this second case, the overall image of the Law is so fantastic that we do not know how to handle its empirical version. Kafka may have wanted this: it all looks *prima facie* realistic, except when you think of it in a holistic manner, then it looks like a veritable nightmare. My solution to this issue was psychological: I argued that Josef K. suffers from megalomaniac paranoia, which allows me to tell the story in a realistic way and compare it with the “Penal Colony”.

My point is that the “Penal Colony” and *The Trial* belong together, and their key ideas form *prima facie* a coherent whole. This also allows philosophical speculations and lends them some plausibility. The point is Kafka handles both the “Penal Colony” and *The Trial* as if they belonged to the realistic genre, but then this is an illusion; it is all about *als ob* realism. I agree that this is a problematic methodological move. Of course, the reader may take the story as it is and read it as an expressionist sketch of a nightmare world without paying attention to its possible realism. The story is illuminating in its own unique manner. In principle, my type of realistic reading requires a semantic interpretation, or an attempt to say what the text means or wants to say. This can be done but it is too difficult to support such an interpretation and hence it stays at the level of a game or play that gives the crypto-narcissistic reader a chance to show how clever he/she is. Therefore, my ideas of Josef K.’s psychological constitution create a methodological move that allows us to stay at a realistic level that is parallel with the “Penal Colony”.

What about tropological themes? In *The Trial*, the Law may look like the law when it is understood realistically. But, ultimately, the episode with the Priest in the dark cathedral and especially the allegory of the Peasant at the Gates of the Law confuse the picture by introducing terms and themes that defy any realistic reading. Their meaning is and remains a mystery. I offered my own solution above. What does it mean to enter the Law? Nevertheless, we may treat these issues tropologically, that is, ask about their metaphoric nature.

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<sup>16</sup> Somehow this resembles Thomas Hobbes’s idea of the commonwealth under a sovereign power. Whatever the law is like and however cruelly it treated the citizen, he/she cannot complain. Hobbes does not want to draw any limits to sovereign power; see his political writings, for instance *De cive* (Hobbes, 1647/1997). George Berkeley reluctantly admits that we need not obey and serve a mad prince, although a bad prince is a different matter; see his *Passive Obedience* (Berkeley, 1712/1948). In this work, Berkeley refuses to see the difference of the punishment as a cost factor vs. its shame and guilt. According to Kafka, the latter aspect is all that matters.

What are the key metaphors in *The Trial*? I already rejected the idea of the Law as a metaphor and treated all terms like the Truth, Law, and the Court as metonyms. This is the basic idea behind my reading of *The Trial*. Let me only pick one obvious example of metaphors: the Gate and entering through it into the Law, the Gate that is for you and only for you, always open but also watched by a Guard who never grows old. Notice that many levels of the law exist, many gates and many more guards appear until one reaches the inner circles and the Law itself. Are these Dante's circles of hell or the Gnostic seven circles of the heavens that an evil Archon guards, whom one must pass in order to enter the Plenum? (Copenhaver, 1995, pp. 5, 105, 120). Is the Guard at the gate of the Law an Archon? He says that there are many others on the other side of his Gate, perhaps seven, and each is more terrifying. This is a Gnostic idea: the Law is the Plenum. "And I am only the lowest doorkeeper. Outside each room you will pass through there is a doorkeeper, each one more powerful than the last. The sight of just the third is too much even for me" (Kafka, 2008, p. 154). If you think in these terms, you miss the gate as a metaphor because, for Gnostics, all this is true. You are back in the realm of metonyms.

What is the Gate a metaphor of, then? We speak about the gates of heaven and hell. We speak of death as a gate to paradise. In fact, "gate" is a common and rather tired metaphor. This is how a door making company advertises its products:

Doors and gates have often symbolized meanings beyond their everyday use. A person can be referred to having a "closed door" mind, indicating that they are stubborn and not willing to accept or listen to new views. The famous phrase "kicking down the door" means that someone pushes forward bravely into or past a difficult situation. Literature, poetry, and proverbs often use doors and gates metaphorically to indicate the passing into a new stage of life. In particular, the genres of science fiction and fantasy heavily utilize the use of doors and gates. These have always been more than they seem in these genres. For example, doors and gates [ . . . ] have the powerful ability to transport those characters who pass through them to other locations. Sometimes these locations hold foreboding, dangerous situations for the characters, and other times they are warm, safe places that the characters are overjoyed to arrive at (A Look at Doors and Gate Metaphors from DCS Industries).

Clearly, in *The Trial* the final extended allegory is crucial for understanding the novel. The Priest had invited Josef K. to listen to his sentencing: the Gate closes he says. He is not a judge, as the killers of Josef K. are not legal executioners. Once again, the Law remains hidden although it is everywhere. And he tells Josef K. about the Gates of the Law that at this point look like a promise that cannot be fulfilled. If he could enter, if he dared, if he was allowed, Josef K. would see what his life and destiny was all about – the Truth. The end of *The Trial* is, therefore, not only metaphorical but also deeply ironic: the Gate is a metaphor for entering a new place and realm, but one cannot enter through this one, or a gate that does not function like a gate. It leads somewhere but at the same time it does not. A gate is, metaphorically, a promise but now it becomes a promise that cannot be kept, which is ever so cynical an idea. Thus, the ultimate meaning of the allegory is, you will never know the Truth, or the promise will not be kept. The Promised Land, the Plenum, is not there for you – only the Gate is. This is so cruel it makes *The Trial* hard to read. The torture machine in the "Penal Colony" is a gate as well, an opening to the Truth, and the cruellest of them all.

The visualization of the Gate – which materializes both in the old quarry and in the torture machine – invites a surreal image: imagine a blank canvas, draw a picture of a gate and its door, the Peasant sitting in front of it, and the Guard standing beside it. The Gate has no context, no house nor any other building, it is just a gate in the middle of infinite nothingness, and light emanates from it illuminating the two dramatis personae. The vision is static until the gate closes. At this moment, Josef K. was knifed to death, like a dog, by a nonchalant killer whose

shamelessness transfers all the shame to the victim – a shame that lingers on (McClelland, 2019, pp. 59–92; Williams, 1993, p. 78).

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